

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KAREN FRAZIER,)	Case No.: 1:11 CV 2747
)	
Plaintiff)	
)	
v.)	
)	JUDGE SOLOMON OLIVER, JR.
MICHAEL J. ASTRUE)	
Commissioner of Social Security,)	
)	
Defendant)	<u>ORDER</u>

The Commissioner of Social Security (the “Commissioner”) denied disability benefits to the claimant, Karen Frazier (“Plaintiff”) in the above-captioned case. Plaintiff sought judicial review of the Commissioner’s decision, and this court referred the case to Magistrate Judge Kathleen B. Burke for preparation of a report and recommendation (“R&R”). Both parties submitted briefs on the merits. Plaintiff sought an order remanding the case. The Commissioner sought final judgment upholding the decision below.

Magistrate Judge Burke submitted her R&R on December 3, 2012, recommending that the case be remanded. (ECF No. 15.) First, she determined that the Administrative Law Judge’s (“ALJ”) finding that Plaintiff experienced medical improvement as of October 1, 2008 was supported by substantial evidence. Next, she found that the ALJ made a revision to Plaintiff’s Residual Functional Capacity (“RFC”), effective October 1, 2008, which eliminated a limitation that Plaintiff would either be absent from work, late getting to work, or have to leave work early at least once per week because of impairments and determined that Frazier was not disabled. However, she also

found that the ALJ failed to explain the connection between the medical improvement and the revision made to Plaintiff's RFC. Because the ALJ's conclusion that Frazier was no longer disabled was based upon the revised RFC, and the ALJ failed to provide sufficient reasoning for changing the RFC, the Magistrate Judge determined that the ALJ's finding that Frazier was not disabled is not supported by substantial evidence in the record. For that reason, the Magistrate Judge concluded, the Commissioner's decision should be reversed, and the case should be remanded.

Plaintiff did not file any objections to the R&R. Defendant filed a response to the R&R indicating that he will not be filing an objection (ECF No. 16.)

The court finds, after careful *de novo* review of the Magistrate Judge's Report and Recommendation and all other relevant documents in the record, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's R&R (ECF No. 15) and hereby reverses the Commissioner's decision and remands the case for further proceedings consistent with this Order and the Magistrate Judge's R&R. On remand, the ALJ should address why, based on Plaintiff's medical improvement, she would not be absent from work, late getting to work, or have to leave work early once a week because of her severe impairments, which continued to exist after September 30, 2008.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
CHIEF JUDGE
UNITED STATES DISTRICT COURT

December 19, 2012